
OLR Bill Analysis

sSB 394

AN ACT CONCERNING MEDICAID ELIGIBILITY AND THE IDENTIFICATION AND RECOVERY OF ASSETS.

SUMMARY:

This bill :

1. allows institutionalized people to enroll in Medicaid in spite of having a “disqualifying asset” that puts them over the program’s threshold (\$1,600 for a single person and \$2,400 for couples),
2. in some circumstances, doubles the financial penalty the Department of Social Services (DSS) can collect when a debt collection proceeding is initiated against a Medicaid recipient;
3. allows DSS to provide financial relief when a resident is subject to a transfer of assets penalty to (a) long-term care (LTC) facilities, (b) medical institutions that provide services equivalent to those provided in LTC facilities, or (c) home and community-based service programs under a Medicaid waiver; and
4. by January 1, 2013, directs the DSS commissioner to issue a request for proposals form and contract with private entities to manage nursing home debt collection in a manner that maximizes collection efforts and minimizes state costs.

EFFECTIVE DATE: July 1, 2012

DISQUALIFYING ASSET

Medicaid is a means-tested program in which eligibility is contingent on the amount of an applicant’s income and available assets. An available asset is one that is actually available to the applicant or one that the applicant has the legal right, authority, or power to obtain or to have applied for his or her general or medical support (CGS § 17b-261). The bill defines a “disqualifying asset” to mean one that makes the applicant ineligible for Medicaid because his

or her assets exceed Medicaid's threshold.

When DSS determines that a single disqualifying asset makes an applicant ineligible for Medicaid, the bill requires the commissioner to notify the facility and applicant, any known guardian or conservator, legally liable relative, or other responsible party. The individual has 45 days from receipt of the notice to spend or liquidate the asset. If he or she does not, the bill requires DSS to grant his or her application. But the state then holds a lien against the asset that has priority over all other unsecured claims and encumbrances.

TRANSFER OF ASSET PENALTIES

By law, the Medicaid program imposes disqualification penalties on applicants who have transferred assets for less than fair market value in the five-year period before they apply for coverage. In such cases, DSS may disqualify the applicant from receiving Medicaid benefits to which he or she would otherwise be entitled. The penalty period is deemed a debt owed to DSS and is currently calculated as the amount of Medicaid provided to the transferor on or after the transfer date. It cannot exceed the fair market value of the assets at the time of the transfer. By law, the length of the disqualification period is calculated by dividing the state's average private pay nursing home charge by the value of the asset improperly transferred.

Under the current formula, no debt accrues to DSS during a penalty period because Medicaid does not pay for any services during these periods. Under the bill, the debt owed to DSS is the higher of (1) any payments for the cost of medical care made during the penalty period or (2) the fair market value of the assets at the time of the transfer. The bill authorizes the DSS and administrative services commissioners and the attorney general to recover payments made to or on behalf of the transferor during the penalty period. The DSS commissioner may assess a monetary fine of up to twice the amount of the debt if the assets were intentionally transferred to obtain or maintain Medicaid coverage.

FINANCIAL RELIEF TO NURSING FACILITIES

Upon the request of a nursing facility, the bill allows the commissioner of DSS to provide financial relief in the form of retroactive or continued Medicaid payments to the facility for any resident subject to the transfer of assets penalty. The facility must establish that:

1. the resident did not apply or qualify for an undue hardship waiver,
2. he or she has lived in the nursing facility for at least 90 days and no payment has been made on his or her account in that time, and
3. the facility has made every practicable effort permissible under state and federal law to recover the amount due.

The bill makes any payments made to a nursing facility in this situation a debt owed to DSS. It is unclear whether these payments qualify for the 50% federal match.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 15 Nay 1 (03/22/2012)